

**Introduced by Senator Ashburn**

February 22, 2005

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An act to add Section 1242 to the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1063, as introduced, Ashburn. State employees: furloughs.

Existing law provides for the hiring, pay, and provision of benefits to employees of state agencies.

This bill would provide, notwithstanding any other provision of law, that during any fiscal year in which a fiscal emergency, as defined, is determined by the Director of Finance to exist, the Governor may by executive order direct that employees of any state agency be placed on furlough, defined as an unpaid leave of absence, for up to 40 hours during the remainder of that fiscal year, with exemption of employees who the Governor deems necessary based on public safety, level of care, revenue production, or other operational considerations. The bill would require the director, on or before November 1 of each fiscal year, to determine whether or not a fiscal emergency exists in the state based on specified criteria.

This bill would require the appointing authority of any furloughed employees to ensure that the furlough is accomplished pursuant to specified provisions, including that a furloughed employee may determine his or her schedule for taking the specified number of furlough hours over the duration of the fiscal year, subject to specified agency needs, and that a furlough shall not create a break in service or adversely impact an employee's service anniversary date, accrual of leave credits, payment of health, dental, or vision benefits, or final compensation for purposes of retirement. It would require the

Department of Personnel Administration to adopt regulations to govern furloughs under these provisions.

This bill would provide that, for purposes of these provisions, state agency means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except the Legislature, the courts, and the University of California.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1242 is added to the Government Code,  
2 to read:

3 1242. (a) For purposes of this section, the following terms  
4 have the following meanings:

5 (1) "Furlough" means an unpaid leave of absence consisting of  
6 a specified number of hours that an employee of a state agency is  
7 not required to report to work and for which that employee will  
8 not receive any salary or wages.

9 (2) "State agency" means every state office, officer,  
10 department, division, bureau, board, and commission or other  
11 state body or agency, except those agencies provided for in  
12 Article IV (except Section 20 thereof) or Article VI of the  
13 California Constitution. State agency includes the California  
14 State University and California Community Colleges but does  
15 not include the University of California.

16 (b) Notwithstanding any other provision of law, during any  
17 fiscal year in which a fiscal emergency is determined to exist, the  
18 Governor may by executive order direct that employees of any  
19 state agency be placed on furlough for up to 40 hours during the  
20 remainder of that fiscal year, with exemption of employees who  
21 the Governor deems necessary based on public safety, level of  
22 care, revenue production, or other operational considerations.

23 (c) On or before November 1 of each fiscal year, the Director  
24 of Finance shall determine whether or not a fiscal emergency  
25 exists in the state. The director shall determine that a fiscal  
26 emergency exists in that fiscal year if any of the following are  
27 true:

1 (1) The General Fund reserve is less than 3 percent of  
2 revenues, excluding the revenues derived from the one-quarter  
3 cent sales and use tax rate.

4 (2) Actual General Fund revenues for the period May 1  
5 through September 30 are less than the May Revision forecast.

6 (3) The Governor notifies the Legislature by June 30 of the  
7 prior fiscal year that there will not be a transfer of funds into the  
8 Budget Stabilization Account pursuant to Section 20 of Article  
9 XVI of the California Constitution.

10 (d) If the Governor directs the furlough of state employees, the  
11 appointing authority of those employees shall ensure that the  
12 furlough is accomplished pursuant to this section.

13 (e) A furloughed employee may determine his or her schedule  
14 for taking the specified number of furlough hours over the  
15 duration of the fiscal year, subject to the agency's need to  
16 continue to provide service to the public or other operational  
17 needs as determined by the appointing authority.

18 (f) An employee may not use paid leave credits in order to  
19 receive pay during a furlough.

20 (g) A furlough shall not create a break in service or adversely  
21 impact an employee's service anniversary date, accrual of leave  
22 credits, payment of health, dental, or vision benefits, or final  
23 compensation for purposes of retirement.

24 (h) The Department of Personnel Administration shall adopt  
25 regulations to implement this section, which shall become  
26 effective immediately upon filing with the Secretary of State.  
27 These regulations shall not be subject to the review and approval  
28 of the Office of Administrative Law pursuant to Chapter 3.5  
29 (commencing with Section 11340) of Part 1 of Division 3 of Title  
30 2.

31 SEC. 2. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety  
33 within the meaning of Article IV of the Constitution and shall go  
34 into immediate effect. The facts constituting the necessity are:

35 In order to resolve the state's budget crisis at the earliest  
36 possible date, it is necessary that this measure take effect  
37 immediately.